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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

DANIEL GRACE, et al.,

Case No. 16-cv-05165-WHA

## Plaintiffs,

**JOINT SUBMISSION REGARDING  
PRE-TRIAL AND TRIAL SCHEDULE;  
[PROPOSED] ORDER REGARDING  
SAME**

Y.

## ALASKA AIR GROUP, INC., et al...

## Defendants.

1 Pursuant to this Court's October 19, 2016 Order, counsel for Plaintiffs and Defendants  
2 (the "Parties") met and conferred regarding a proposed expedited trial schedule. The Parties have  
3 agreed on most aspects of a pretrial and trial schedule, with the following exceptions for which  
4 the Court's guidance is needed:

5 (1) Trial start date: Defendants propose a trial start date of Monday, December 5, 2016.  
6 Plaintiffs propose a trial start date of Monday, December 12, 2016.

7 (2) Trial length: Defendants propose a four-day trial with closing arguments on the fifth  
8 day. Plaintiffs propose five court days for trial, including closing arguments.

9 (3) Trial time allotment: Defendants propose an equal allotment of hours for each side  
10 for opening statements, presenting evidence, and closing arguments. Plaintiffs propose that the  
11 presentation of evidence be allotted substantially equally between the parties subject to the  
12 Court's supervision as the needs of the trial may dictate.

13 Other than these three matters, the Parties have agreed to the following Internal Dates,  
14 subject to the Conditions and Limitations stated below the table:

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Event	Defendants' Proposed Dates for December 5 Trial	Plaintiffs' Proposed Dates for December 12 Trial
<b>Discovery Opens</b>	<p><b>Tuesday, October 25, 2016</b></p> <ul style="list-style-type: none"> <li>On October 25, 2016, Defendants to begin production of their HSR Documents to Plaintiffs.</li> <li>On October 25, 2016, Plaintiffs to begin providing an identification of which Plaintiffs have flown or booked Alaska and/or Virgin America flights within the past five (5) years, including the routes and dates flown or booked, and any purchased or booked Alaska and/or Virgin flights for travel within the next six (6) months, and their frequent flyer numbers, if any, with Alaska and Virgin.</li> <li>On October 25, 2016, Plaintiffs to begin production of all documents on which their allegations are based.</li> <li>Both Parties' productions to be completed by October 28, 2016.</li> </ul>	<p><b>Tuesday, October 25, 2016</b></p> <ul style="list-style-type: none"> <li>On October 25, 2016, Defendants to begin production of their HSR Documents to Plaintiffs.</li> <li>On October 25, 2016, Plaintiffs to begin providing an identification of which Plaintiffs have flown or booked Alaska and/or Virgin America flights within the past five (5) years, including the routes and dates flown or booked, and any purchased or booked Alaska and/or Virgin flights for travel within the next six (6) months, and their frequent flyer numbers, if any, with Alaska and Virgin.</li> <li>On October 25, 2016, Plaintiffs to begin production of all documents on which their allegations are based.</li> <li>Both Parties' productions to be completed by October 28, 2016.</li> </ul>
<b>Exchange Initial Witness List</b> (non-binding, good faith list)	<b>Tuesday, November 8, 2016</b>	<b>Monday, November 14, 2016</b>
<b>Exchange Initial Trial Exhibit List</b> (non-binding, good faith list)	<b>Thursday, November 10, 2016</b>	<b>Thursday, November 17, 2016</b>
<b>Exchange Final Witness List</b>	<b>Thursday, November 17, 2016</b>	<b>Friday, December 2, 2016</b>

Event	Defendants' Proposed Dates for December 5 Trial	Plaintiffs' Proposed Dates for December 12 Trial
<b>Exchange of Expert Disclosure/Reports</b>	<b>Thursday, November 17, 2016</b>	<b>Wednesday, November 23, 2016</b>
<b>Close of Fact Discovery</b>	<b>Wednesday, November 23, 2016</b>	<b>Friday, December 2, 2016</b>
<b>Exchange Supplemental/Rebuttal Expert Reports</b>	<b>Wednesday, November 23, 2016</b>	<b>Wednesday, November 30, 2016</b>
<b>Exchange Final Trial Exhibit List</b>	<b>Monday, November 28, 2016<sup>1</sup></b>	<b>Monday, December 5, 2016<sup>2</sup></b>
<b>Joint Pretrial Order</b>	<b>Monday, November 28, 2016</b>	<b>Monday, December 5, 2016</b>
<b>Close of Expert Discovery</b>	<b>Wednesday, November 30, 2016</b>	<b>Wednesday, December 7, 2016</b>
<b>Trial Brief</b>	<b>Wednesday, November 30, 2016</b>	<b>Friday, December 9, 2016</b>
<b>Pretrial Conference</b>	<b>Thursday, December 1, 2016</b>	<b>Thursday, December 8, 2016</b>
<b>Trial Start Date</b>	<b>Monday, December 5, 2016</b> <ul style="list-style-type: none"> <li>• Trial duration: <ul style="list-style-type: none"> <li>○ Four (4) court days for opening statements and evidence to be presented.</li> <li>○ The total hours allotted for trial shall be equally divided among the two sides.</li> </ul> </li> </ul>	<b>Monday, December 12, 2016</b> <ul style="list-style-type: none"> <li>• Trial duration: <ul style="list-style-type: none"> <li>• Five (5) court days, for opening statements and evidence to be presented and closing arguments.</li> <li>• The time for presenting of evidence shall be allotted substantially equally between the parties subject to the Court's supervision as the needs of the trial may dictate.</li> </ul> </li> </ul>
<b>Trial Evidence Ends</b>	<b>Thursday, December 8, 2016</b>	<b>Friday, December 16, 2016</b>
<b>Closing Arguments</b>	<b>Friday, December 9, 2016</b> <ul style="list-style-type: none"> <li>• One (1) hour per side</li> </ul>	<b>Friday, December 16, 2016</b>

<sup>1</sup> Exhibits arising in connection with expert depositions taken on or after November 28, 2016, may be added to the Final Trial Exhibit List.

<sup>2</sup> Exhibits arising in connection with expert depositions taken on or after December 5, 2016, may be added to the Final Trial Exhibit List.

## **CONDITIONS AND LIMITATIONS:**

2        **Confidentiality:** Documents produced to the other side that are designated as  
3 Confidential shall be maintained as Attorneys' of Record (including their firms), Plaintiffs'  
4 Committee's, Alaska's In-House Counsel's, and Retained Experts' "Eyes Only." The Plaintiffs'  
5 Committee shall be no more than five (5) named plaintiffs, selected by Plaintiffs' counsel, who  
6 shall sign a declaration agreeing not to disclose the other side's Confidential information to  
7 anyone aside from Plaintiffs' counsel, or use the information for any purpose other than this  
8 litigation. Alaska's In-House Counsel shall be two in-house lawyers with Alaska who shall sign a  
9 declaration agreeing not to disclose the other side's Confidential information to anyone aside  
10 from Defendants' counsel, or use the information for any purpose other than this litigation. After  
11 a Protective Order is entered by the Court, the documents shall be maintained in accordance with  
12 the terms of the Protective Order.

13        **Deposition Limits:** Parties to meet and confer on location, number, and length of  
14        depositions.

15        **Trial Witnesses May Be Deposed:** Notwithstanding the deposition limit, if any, and the  
16        scheduled Close of Fact Discovery, if a party identifies a witness on its Final Witness List that it  
17        did not identify on its Initial Witness List, the disclosing party shall provide the witness for  
18        deposition on reasonable notice before the Pretrial Conference.

19        **Final Exhibit List:** Notwithstanding the Close of Fact Discovery, if a party identifies  
20 documents on its Final Trial Exhibit List that were not previously produced in discovery, the  
21 opposing side will be permitted to conduct necessary discovery related to such newly-identified  
22 exhibits.

23        **Internal Dates:** The Parties may, by stipulation, agree to modify these dates for good  
24 cause, except for the following dates, which may only be changed by Court order: submission of  
25 Joint Pretrial Order, submission of Trial Brief, the Pretrial Conference, and the Trial Start Date.

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1 Respectfully submitted,  
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4 Dated: October 21, 2016

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6 JAMIE L. MILLER  
7 ALIOTO LAW FIRM

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27 By: /s/ Jamie L. Miller  
28 Jamie L. Miller

29 Attorney for Plaintiffs  
30 DANIEL GRACE, et al.

1  
2 Dated: October 21, 2016

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22 Attorney for Defendants  
23 ALASKA AIR GROUP, INC. AND ALASKA  
24 AIRLINES, INC.

25  
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27  
28 **ATTESTATION CLAUSE**

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30 I, Kenneth R. O'Rourke, hereby attest in accordance with Local Rule 5-1(i)(3) that each  
31 signatory has concurred in the filing of this document.

32  
33 Dated: October 21, 2016

34  
35 RICHARD PARKER  
36 KENNETH R. O'ROURKE  
37 BENJAMIN G. BRADSHAW  
38 O'MELVENY & MYERS LLP

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41  
42 /s/ Kenneth R. O'Rourke  
43 Kenneth R. O'Rourke

## **[PROPOSED] ORDER**

PURSUANT TO THE JOINT SUBMISSION REGARDING PRE-TRIAL AND TRIAL SCHEDULE, IT IS HEREBY ORDERED:

Trial shall commence on December \_\_\_, 2016. The corresponding dates for pretrial and the Conditions and Limitations as stated in the JOINT SUBMISSION REGARDING PRE-TRIAL AND TRIAL SCHEDULE shall apply. Trial duration shall be \_\_\_\_\_, and trial time per side shall be \_\_\_\_\_.

IT IS SO ORDERED.

Dated: October \_\_\_, 2016

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Hon. William Alsup  
United States District Judge